

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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A [REDACTED] R [REDACTED], a minor under the age of 18 years,
by TASHILA RIVERA, Mother, and A [REDACTED]
B [REDACTED], a minor under the age of 18 years, by NELIDA
DIAZ, Mother,

COMPLAINT

PLAINTIFFS,

16-CV-7438

-AGAINST-

NEW YORK CITY, POLICE OFFICER JASON
TREGLIA, and POLICE OFFICER ALEXANDER
JAVIER-HERNANDEZ, individually, and in their capacity
as members of the New York City Police Department,

DEFENDANTS.

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PRELIMINARY STATEMENT

1. This is a civil action in which Plaintiffs seeks relief for the violation of their rights secured by 42 USC 1983, the Fourth and Fourteenth Amendments to the United States Constitution.
2. The claims arise from an incident on February 8, 2016, in which officers of the New York City Police Department acting under color of state law, intentionally and willfully subjected Plaintiffs to *inter alia* false arrest and excessive force.
3. Plaintiffs seek monetary damages (special, compensatory, and punitive) against defendants as an award of costs and attorneys' fees, and such other and further relief as this Court deems just and proper.

JURISDICTION

4. This action is brought pursuant to 28 USC 1331, 42 USC 1983, and the Fourth and Fourteenth Amendments to the United States Constitution.
5. Venue is laid within the United States District Court for the Southern District of New York in that the events giving rise to the claim occurred within the boundaries of the Southern District of New York.

PARTIES

6. Plaintiff Ms. Tashila Rivera (“Ms. Rivera”) and minor child, A [REDACTED] R [REDACTED] (“A [REDACTED]”), are both United States citizens.
7. At the time of the incident, Ms. Rivera and A [REDACTED] resided at 2037 Belmont Avenue, Apt #16, Bronx, NY 10457. Ms. Rivera and A [REDACTED] currently reside at 2374 Webster Avenue, Apt#2S, Bronx, NY 10458.
8. Plaintiff Ms. Nelida Diaz (“Ms. Diaz”) and her minor child, A [REDACTED] B [REDACTED] (“A [REDACTED]”), are both United States citizens and at all times here relevant both resided at 747 E 168th Street, Apt 2F, Bronx, NY 10456.
9. A [REDACTED] is A [REDACTED]’s aunt.
10. The City of New York is a municipal corporation organized under the laws of the State of New York.
11. Police Officer Jason Treglia (“PO Treglia”) and Police Officer Alexander Javier-Hernandez (“PO Hernandez”) are sued in their individual and professional capacities.

12. At all times mentioned, defendants were acting under color of state law under color of the statutes, ordinances, regulations, policies and customs and usages of the City of New York.

FACTUAL ALLEGATIONS

13. On or about Monday, February 8, 2016, at approximately 6:30 pm, A [REDACTED] and A [REDACTED] were at the intersection of 179th Street and Belmont Avenue in the Bronx.
14. Ms. Rivera had sent A [REDACTED] and A [REDACTED] to pick up pizza for the family.
15. A [REDACTED] and A [REDACTED] had picked up the pizza and were on their way back to A [REDACTED]'s home.
16. A [REDACTED] was rapping a song as he walked on the sidewalk.
17. A police car pulled up next to A [REDACTED] and A [REDACTED].
18. PO Treglia asked A [REDACTED] if he was threatening the police officers.
19. A [REDACTED] was surprised and told PO Treglia that he was not threatening them.
20. PO Treglia then said to A [REDACTED], in sum and substance, "Are you trying to be a tough guy?"
21. PO Hernandez and PO Treglia then exited the police car.
22. PO Treglia asked PO Hernandez if they should handcuff A [REDACTED].
23. PO Hernandez told PO Treglia that it was up to him to decide.
24. PO Treglia then handcuffed A [REDACTED] behind his back.
25. A [REDACTED] went to take A [REDACTED]'s cell phone from him.
26. PO Treglia then struck A [REDACTED] on her left shoulder.
27. Ms. Rivera then arrived at the scene.
28. PO Treglia proceeded to slam A [REDACTED]'s head onto the trunk of the car.

29. PO Treglia searched A [REDACTED] and threw him in the back of the car.
30. Ms. Rivera asked the officers for their badge numbers, but PO Treglia refused to respond and drove off with the door of the car still open.
31. In the police car PO Treglia told A [REDACTED], in sum and substance, "I know where your life is going."
32. A [REDACTED] was taken to 48th Precinct.
33. At the precinct, PO Treglia tightened A [REDACTED]'s handcuffs and lifted them up, causing A [REDACTED] severe pain.
34. A [REDACTED] asked PO Treglia to loosen the handcuffs, but PO Treglia refused.
35. PO Treglia then searched A [REDACTED] R [REDACTED] again.
36. Ms. Rivera arrived at the precinct and informed the officers that A [REDACTED] was only 14 years old.
37. A [REDACTED] was taken to a side room and cuffed to a pole.
38. PO Treglia tightened the handcuffs again.
39. PO Hernandez then came into room and asked A [REDACTED] questions regarding his age, weight, and height.
40. PO Hernandez then left the room and PO Treglia came in to watch A [REDACTED]
41. A [REDACTED] was held at the precinct for several hours.
42. Eventually A [REDACTED] was released without charge.
43. The next day, A [REDACTED] went to St. Barnabas Hospital to receive treatment for the injuries to his nose and wrists.
44. A [REDACTED] also went to the hospital to receive treatment for the injury to her left shoulder.

45. A [REDACTED] and A [REDACTED] feel traumatized by these events and are wary and fearful when they see NYPD officers. A [REDACTED] and A [REDACTED] take efforts to avoid police officers when in public.

FIRST CAUSE OF ACTION

(42 USC 1983 – Excessive Force)

46. Plaintiffs repeat and reallege each of the preceding allegations of this Complaint as if fully set forth herein.

47. Defendants have deprived Plaintiffs of their civil, constitutional and statutory rights under color of law and are liable to plaintiffs under 42 USC 1983.

48. Defendants have deprived Plaintiffs of their right to be free of unreasonable searches and seizures, pursuant to the Fourth and Fourteenth Amendments to the United States Constitution, in that defendants used excessive and unreasonable force in effecting the arrest of Plaintiff.

SECOND CAUSE OF ACTION

(42 USC 1983 – False Arrest)

49. Plaintiff A [REDACTED] R [REDACTED] repeats and realleges each of the preceding allegations of this Complaint as if fully set forth herein.

50. Defendants have deprived Plaintiff A [REDACTED] [REDACTED] of his civil, constitutional and statutory rights under color of law and are liable to Plaintiff A [REDACTED] R [REDACTED] under 42 USC 1983.

51. Defendants have deprived Plaintiff A [REDACTED] R [REDACTED] of his right to be free of unreasonable searches and seizures, pursuant to the Fourth and Fourteenth

Amendments to the United States Constitution, in that Plaintiff A [REDACTED] R [REDACTED] was falsely arrested by Defendants.

52. Defendants unreasonably and unjustifiably confined Plaintiff A [REDACTED] R [REDACTED].

53. Plaintiff A [REDACTED] R [REDACTED] was aware of, and did not consent to, his confinement.

54. The confinement was not privileged.

55. Plaintiff A [REDACTED] R [REDACTED] has been damaged a result of Defendants' actions in an amount believed to equal or exceed the jurisdictional limit of this Court.

THIRD CAUSE OF ACTION

(Failure to Intervene)

56. Plaintiff repeats and realleges each of the preceding allegations of this Complaint as if fully set forth herein.

57. Defendant PO Treglia arrested Plaintiff A [REDACTED] R [REDACTED] without probable cause or legal justification.

58. Defendant PO Hernandez knew, or should have known, that PO Treglia did not have probable cause or legal justification to arrest plaintiff.

59. Defendant PO Hernandez failed to intervene to prevent the arrest of Plaintiff without probable cause or legal justification.

60. Defendant PO Hernandez had sufficient time to intercede and had the capability to prevent the arrest of Plaintiff without probable cause or legal justification.

61. Plaintiff has been damaged a result of Defendants' actions in an amount believed to equal or exceed the jurisdictional limit of this court

JURY DEMAND

62. Plaintiffs demand a trial by jury.

WHEREFORE, Plaintiffs respectfully request that the court enter a Judgment against Defendants together with costs and disbursements as follows:

In favor of Plaintiffs in an amount to be determined by a jury, but at least equal or exceeding the jurisdictional limit of this court, for each of Plaintiffs' causes of action;

Awarding Plaintiffs punitive damages in an amount to be determined by a jury;

Awarding Plaintiffs reasonable attorneys' fees, costs and disbursements of this action;

And such other and further relief as the Court deems just and proper.

Dated: New York, New York
September 23, 2016

By: /s/
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